

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JANET A. PEARSON,

Plaintiff,

v.

**MICHAEL J. ASTRUE, COMMISSIONER
OF SOCIAL SECURITY,**

Defendant.

No. 09-506-DRH

ORDER

HERNDON, Chief Judge:

On July 13, 2009, Plaintiff Janet A. Pearson filed suit against Defendant Michael J. Astrue, Commissioner of Social Security, seeking judicial review of the Commissioner's decision to deny benefits to Plaintiff (Doc. 2). Specifically, Plaintiff seeks judicial review pursuant to **42 U.S.C. § 405(g)** of the Commissioner's decision to deny Plaintiff Disability Insurance Benefits (DIB) and Supplemental Security Income (SSI). Both sides have fully briefed the issue. This matter comes before the Court on a Report and Recommendation ("the Report") issued by Magistrate Judge Donald G. Wilkerson pursuant to **28 U.S.C. § 636(b)(1)(B)** (Doc. 23). Magistrate Judge Wilkerson's Report finds that the ALJ's findings that the Claimant could perform her past relevant work is not supported by substantial evidence because the ALJ did not address whether the Claimant's earnings were sufficient to constitute substantial gainful activity nor was there substantial evidence to support the finding and thus the case should be Remanded back to the Commissioner to fully develop

the record regarding Plaintiff's previous relevant work history.

Under **Rule 73.1(b) of the Local Rules of the Southern District of Illinois**, the parties had fourteen (14) days in which to file objections to the Report. As of this date, neither party has filed objections. The fourteen day period in which parties may file objections has expired. Therefore, pursuant to **28 U.S.C. § 636(b)**, this Court need not conduct a de novo review. ***Thomas v. Arn*, 474 U.S. 140, 149-52 (1985)**.

Accordingly, the Court **ADOPTS** Judge Wilkerson's Report (Doc. 23) in its entirety and finds that the Commissioner's decision was not supported by substantial evidence. Thus, the Court **REMANDS** this case back to the Commissioner in order to fully develop the record.

IT IS SO ORDERED.

Signed this 20th day of September, 2010.

/s/ David R. Herndon

**Chief Judge
United States District Court**